



***Miami-Dade County Board of County Commissioners***

***Office of the Commission Auditor***

**Legislative Analysis**

**Community Outreach, Safety and Healthcare  
Administration Committee**

Wednesday, April 13, 2005  
2:00 PM  
Commission Chamber

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Commission Auditor

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**Miami-Dade County Board of County Commissioners  
Office of the Commission Auditor**

**Legislative Analysis**

**Community Outreach, Safety and Healthcare Administration Committee  
Meeting Agenda  
April 13, 2005**

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

**Item Number(s)**

2(B), 2(C), 2 (B and C Supplement)
2(G)
3(C)

If you require further analysis of these or any other agenda items, please contact Gary Collins, Acting Chief Legislative Analyst, at (305) 375-1826.

Acknowledgements--Analyses prepared by:  
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**LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT**

*ORDINANCES PERTAINING TO ELECTION CAMPAIGN FINANCING TRUST FUND*

Commissioner Bruno Barreiro (2B)  
Commissioner Sally Heyman (2C)  
Commissioner Rebeca Sosa (2B &C Supplement)

**I. SUMMARY**

On these three complementary items, Commissioners have the option of modifying in part or repealing the section of Miami-Dade County Code relating to the voter-approved Campaign Financing Trust Fund.

**II. PRESENT SITUATION**

The Campaign Financing Trust Fund was approved by voters on Nov. 7, 2000 and was sold to voters as a way to take special interests out of the election process and allow more people to run for office by giving eligible candidates public funds to assist them in their campaigns for County Mayor and County Commissioner. However, since becoming law, the Code has come under attack from many who say it is rife with loopholes, as perceived in the most recent Commission elections. Still, others say that the trust fund is an effective tool for law-abiding candidates. In the recent Commission and Mayoral elections, two candidates who qualified for the funds now hold office, Commissioner Barbara Jordan and Mayor Carlos Alvarez.

**III. POLICY CHANGE AND IMPLICATION**

- **Item 2A** repeals Code 12-22 in its entirety.
- **Item 2B** offers slight modifications to the code, including amending the deadline for applying for public finances.
- **Item 2A, 2B Supplement** is drafted in chart form and includes various suggestions for revisions to the code. Commissioners will be able to pick and chose which revisions they agree with, if any at all. According to staff, these suggested revisions are the result of a workshop in which various Commissioners offered suggestions. The options include those revisions proposed in item **2B**.

**COSHAC ITEMS 2(B), 2(C), & 2(B and C Supplement)**  
**April 13, 2005**

**IV. ECONOMIC IMPACT**

Repealing the entire section of the code relating to the election campaign trust fund would have a positive fiscal impact on the county, according to staff (see below). *Conversely, if the code is only amended, it will have no fiscal impact on the County.*

	2000-01	2001-02	2003-04 & 2004-05
Commission Election	\$75,000.00	\$50,000.00	\$2.75M *

\*Includes mayoral election and run-offs

**V. COMMENTS AND QUESTIONS**

None.

Attachments: "Campaign Finance Law Facing Repeal Debate," *The Miami Herald*, 2/8/05  
"Dade Panel Toughens Public Funds Law," *The Miami Herald*, 6/19/02  
"Dade Public to Pay for Campaigns," *The Miami Herald*, 3/9/01

## NewsBank InfoWeb

## America's Newspapers

## CAMPAIGN FINANCE LAW FACING REPEAL DEBATE

Miami Herald, The (FL)

February 8, 2005

Author: TERE FIGUERAS NEGRETE, tfigueras@herald.com

Estimated printed pages: 2

A push by some Miami-Dade commissioners to eliminate the county's public **campaign** financing system - approved by voters several years ago but cited by critics as prone to abuse - may move forward this week.

A measure that would repeal the law, which allows candidates in commission and mayoral races to receive public funds, is up for public hearing at a committee meeting Wednesday.

But the commission's Community Outreach, Safety and Healthcare Administration Committee will also entertain a proposal from Commissioner Sally Heyman to keep public financing, but bring greater scrutiny of those who hope to boost their **campaign** coffers with public funds.

"I think the benefits far outweigh the problems we've seen," said Heyman, a former state legislator. "But we have to ensure integrity. We're talking big money here."

## FIRSTHAND EXPERIENCE

Two commissioners propose doing away with public financing for political **campaigns**: The recently reelected Natacha Seijas and Bruno Barreiro, whose opponents' **campaigns** last year were marred by allegations of fraud.

Three people were eventually arrested on charges they abused the public **finance** rules, which require candidates to meet a threshold of individual donors in order to qualify for public funds. Those arrested included Barreiro's sole opponent, Juan Miguel Alfonso, who was accused of purchasing dozens of money orders in the names of supposed contributors - including several of Barreiro's supporters. The challenger nearly grabbed \$50,000 of public money before Barreiro tipped off the authorities.

"If anything, this law has attracted people to run for fraudulent reasons," Barreiro said.

Seijas' opponent in a runoff, Jorge Roque, was hampered after prosecutors froze his **campaign** accounts during their fraud investigation. Roque's sister-in-law and a **campaign** consultant were charged with an alleged scam to boost the number of individual donors listed on the **campaign** reports.

Overall, last year's elections saw an unprecedented number of candidates qualifying for \$2.5 million in public funds. Of the dozen candidates who qualified, two now sit in office: Commissioner Barbara Jordan and Mayor Carlos Alvarez, who used public funding to propel him to the front of a crowded August primary.

"I think it showed tremendous value, especially in the mayor's race," Heyman said. "It opens up the political forum."

Heyman proposes requiring candidates to file notice that they will be seeking public funds before the deadline to qualify for a political race. The early notice is intended to give investigators lead time to scrutinize applications, she said. Donors would also be required to use personal checks for campaign gifts and sign statements acknowledging their contributions.

A complete audit of all 12 candidates who qualified for public funding last year won't be complete until early next year.

Edition: Final  
Section: Metro & State  
Page: 3B

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## NewsBank InfoWeb

## America's Newspapers

## DADE PANEL TOUGHENS PUBLIC FUNDS LAW

The Miami Herald

June 19, 2002

Author: KARL ROSS, kross@herald.com

Estimated printed pages: 2

The Miami-Dade County Commission on Tuesday tightened the law governing the use of public funds for political **campaigns** so that candidates cannot use the money for personal expenses such as shopping sprees or for payments to themselves.

Commissioner Rebeca Sosa, who sponsored the measure, said allocations from the county's Election **Campaign Financing Trust Fund** should not be tantamount to "a ticket to go to Burdines."

The **trust's** trial run was considered problematic because the sole candidate to receive public **campaign** funds, Ana Alliegro, was unable to document the expenditure of about \$48,000 of the \$75,000 she received in taxpayer money. Alliegro was runner-up to Sosa in last summer's special election for the District 6 county commission seat.

Sosa's measure makes it illegal for candidates to use county public **campaign** funds for updating their wardrobes, cosmetic surgery or new cars. It also outlaws payments to candidates, immediate family members or to businesses in which candidates or their immediate family members have a controlling interest.

Many of these uses are legal under state **campaign finance** laws.

Candidates flouting Miami-Dade's election rules can be barred from receiving future public **campaign** funding for eight years.

"Where I'm coming from is to prevent someone from using the public funding to pay my mother, my father, my sister, my brother," Sosa said. "I want to avoid something that can come back to us and kick our face."

Sosa's measure passed 12-0, but only after she agreed to roll back some restrictions that Commissioner Jimmy Morales and groups such as the League of Women Voters found onerous.

As originally crafted, Sosa's measure would have prevented candidates from using public funds to hire full-time **campaign** aides, office managers, even accountants. It also would have cut from 90 days to 45 days the time candidates are allotted to prepare their books for a post-election audit.

"My fear is I don't want public financing to handicap a candidate for doing things other candidates can do," Morales said.

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Section: Local

Page: 3B

## NewsBank InfoWeb

## America's Newspapers

## DADE PUBLIC TO PAY FOR CAMPAIGNS PLAN APPROVED FOR PARTIAL FUNDING

Miami Herald, The (FL)

March 9, 2001

Author: TYLER BRIDGES, tbridges@herald.com

Estimated printed pages: 4

Miami-Dade County taxpayers will begin partial financing of mayoral and county commission elections under an ordinance approved Thursday as a way to reduce the cost of **campaigns** and lessen the influence of wealthy contributors.

"We can send a strong message today," Commissioner Jimmy Morales said as he urged his fellow commissioners to back the measure he sponsored. They supported him on a 10-1 vote, with only Commissioner Bruno Barreiro dissenting.

Mayor Alex Penelas also endorsed the measure, which imposes limits on how much candidates can raise and spend if they accept public dollars.

"I'm hoping the long term impact will be a reduced role of special interest money in political **campaigns**, and increased competition in the political process," Morales said after the vote. "I hope that will restore significant public **trust** in the process."

The commission vote puts Miami-Dade in the ranks of about a dozen other local governments across the U.S. that have established some form of public election financing, including Oakland, Los Angeles and Long Beach in California, New York City, Austin and Tucson.

The commission was required to enact a **campaign-finance** ordinance by a Nov. 7 referendum vote, when the concept was approved by 58 percent of the voters. Commissioners had rejected a similar proposal by Morales one year ago, saying they were reluctant to spend public money on the idea. Morales subsequently pushed for the referendum vote.

The new law will take effect for the 2002 elections when at least six commissioners - and perhaps all 13 if redistricting requires everyone to run - will be on the ballot.

Under the law, commission candidates could receive as much as \$125,000 for the election - \$75,000 for the primary and \$50,000 if they qualify for a runoff.

Commission candidates would qualify for the money if they collect at least 200 separate contributions between \$15 and \$250 from registered Miami-Dade voters. In theory, that means a candidate could raise as little as \$3,000 in private funds - 200 \$15 contributions - and qualify for \$75,000 in public funds.

In exchange for accepting the money, the candidates must agree not to spend more than \$150,000 in the primary, and an additional \$100,000 in the runoff.

Mayoral candidates could receive \$500,000 - \$300,000 for the primary and \$200,000 for the runoff. They would qualify if they receive at least 1,000 separate contributions between \$15 and \$250. In exchange, they could spend no more than \$600,000 overall in the primary and another \$400,000 in the



runoff.

Morales' ordinance creates an Election **Campaign** Financing Trust Fund for the money. It would have cost taxpayers \$1.6 million in 1996, \$300,000 in 1998 and \$750,000 in 2000.

The only controversy Thursday was prompted by a provision that would have required candidates who accept public money to participate in a **campaign** debate.

Three commissioners objected - Pedro Reboredo, Javier Souto and Barreiro. Barreiro said he had never debated an opponent and should be free to refuse to do so, even if he accepted public money.

Morales then reluctantly removed the debate requirement, after noting that other local governments with similar laws required the debates.

Barreiro voted against the proposal anyway. He later said he wasn't convinced that voters would agree with Morales' plan, because the referendum question did not include any specific proposals. The commissioner also said that many of the challengers in the 2000 commission races would not have qualified for public funding under Morales' requirements.

The measure responds to a public perception that incumbents have a leg up because they can raise big dollars from well-heeled contributors and special interests.

"People are unhappy with the tremendous amount of money you need to run for office in Dade County," Gerald Kogan, a former chief justice of the Florida Supreme Court and now the president of the Alliance for Ethical Government, told commissioners.

Six of seven others who addressed the commission also favored Morales' plan, including representatives of the League of Women Voters and the Greater Miami Chamber of Commerce.

"It is important that the commission approve this ordinance as we feel it lessens the impact of special interest dollars, broadens the field of potential candidates to include those with lesser financial resources and/or fund raising abilities and, in the long run, reduces the cost of running for elected office," said Philip Blumberg, the chamber's chairman.

In the 2000 election, Commissioner Natacha Seijas raised the most of any candidate, \$374,000 as she won reelection against former state Sen. Roberto Casas. Commissioner Joe Martinez spent the least, \$156,000, in winning an open seat.

Seijas attributed her victory Thursday not to raising the most money, but to knocking on 6,000 voters' doors over a seven-month period.

#### WHAT ELECTIONS COST IN MIAMI-DADE

- \* In 2000, Miami-Dade Mayor Alex Penelas raised more than \$1.3 million for his successful reelection campaign.
- \* In the 2000 county commission election, Commissioner Natacha Seijas raised \$374,000 for her winning race.
- \* Penelas and the six incumbent commissioners on the 2000 ballot raised a total of more than \$3 million - three times as much money as all their opponents combined. All the incumbents won.
- \* In the 1997 Miami mayoral race, Mayor Joe Carollo raised more than \$250,000.

## LEGISLATIVE ANALYSIS

### *RESOLUTION REQUESTING COUNTY MANAGER TO DIRECT MIAMI-DADE POLICE DEPT. TO DEVELOP POLICY RELATING TO USE OF TASERS*

Commissioner Barbara Carey-Shuler, Ed.D.  
Commissioner Barbara J. Jordan  
Commissioner Dorrin D. Rolle

#### **I. SUMMARY**

This resolution requests the County Manager to direct the Miami-Dade Police Department to develop a comprehensive policy addressing the use of Tasers. The department will also be directed to provide language where the use of tasers on minors will be refrained from with the exception of life-threatening situations.

#### **II. PRESENT SITUATION**

Tasers are being purchased and used by law enforcement and police departments across the country. Taser International has been a pioneer in the market of providing an alternative to guns with advanced, non-lethal devices for the use of law enforcement, self-defense, and other personal defense markets.

Taser International, Inc. has been given great support through medical studies agreeing taser guns are the safest, most effective mechanism for law enforcement. Since 1993, Taser International has proudly promoted their name, product, and theme of "Saving Lives Everyday". However, over the last year, Taser International has been under turmoil in the media for being associated with injuries and lives lost instead of lives saved from their products.

The use of taser guns in Miami-Dade County has become a hot issue after two major incidents involving the Miami-Dade Police Department. In the last six months, much discussion has evolved around the Taser policy for the Miami-Dade Police Department after a 6-year-old and a 12-year-old were tased by officers. In addition to the incidents that have taken place here in Miami-Dade County, there have also been many episodes around the country linking Tasers to critical circumstances and major headlines in the media. Last week, the proposal to ban the use of taser guns in Florida schools was delayed in the senate as more discussion materializes for a statewide policy on the weapons.

#### **III. POLICY CHANGE AND IMPLICATION**

- **Attachment #1-** The projected modifications to the Taser policy have been provided.
  - The attachment compares the current Taser policy and the revised Taser policy for the Miami-Dade Police Department.

#### IV. ECONOMIC IMPACT

N/A

#### V. COMMENTS AND QUESTIONS

This resolution *emphasizes the Miami-Dade Police Department will refrain from use of Tasers on minors except in situations where there is an actual threat to the life of the minor, the police officer, or the public.*

- There may be a conflict for officers in how they should respond during life-threatening events with minors:
  - The conflict may come when officers are faced with whether they should use Tasers during life-threatening circumstances or
  - Whether they should use other means of force (including the use of deadly force) to protect themselves and others from life-threatening circumstances.
- Can the Miami-Dade Police Department further address how officers will be reprimanded for not complying with this policy?
- Will the Miami-Dade Police Department have a supervising officer designated and responsible for the compliance and oversight of Tasers and their policy?

*This resolution was deferred by the Board of County Commissioners on March 3, at the request of Commissioner Dr. Barbara Carey-Shuler after Police Director Robert Parker suggested that the resolution may be inconsistent with State Statute 7-76 regarding the use of force.*

*Commissioner Rebeca Sosa requested that a report be prepared for the COSHA Committee outlining any new developments on the use of taser gun technology to include personnel training, how the mentally challenged will be identified and dealt with, and the application of other available law enforcement instruments.*

# MDPD Taser Policy Comparison

CURRENT	REVISED
<b>Training</b>	<b>Training</b>
Only those employees who have completed the approved Taser User certification may use the Taser.	Same
<b>Deployment Policy</b>	<b>Deployment Policy</b>
- In an arrest situation where a subject is escalating resistance from passive to energy-enhanced passive resistance - when the subject is exhibiting threatening body language associated with verbal threats, or threatening body language and refusing to comply with officer's instructions.	- In an arrest situation where the subject is escalating resistance from passive physical resistance towards active physical resistance. (the policy does not define "passive" physical resistance)
	- Consider subject/officer factors such as age, size, weight and the subject's apparent ability to harm himself or others, balanced against the seriousness of the incident.
	- Primary purpose is to prevent continuing escalating subject resistance or violence and to minimize injury to both the subject and officer. Not to be used as a tool of coercion or to intimidate an individual into compliance with directives by an officer.
	- Prior to deployment, take into account environmental factors, such as subjects standing on or near the edge of a roof, stairs, window or body of water.
	- When a subject is exhibiting threatening body language associated with verbal threats (e.g. assuming a boxer-stance, circling the officer) or refusing to comply with officer instructions and the subject has the apparent ability to physically challenge the officer.
	- When a subject makes physically evasive movements to defeat an officer's attempt at control (e.g. attempts to kick, push, or pull away; not allowing the officer to get close to him/her)
	- When a subject makes overt, hostile attacking movements which may cause injury (but not likely to cause death or great harm) to the officer or others.
	- When a subject makes overt, hostile, attacking movements with or without a weapon with the intent and apparent ability to cause death or great bodily harm to the officer or others.
	- When lesser force options are ineffective.
	- <u>Handcuffed</u> subjects shall not be tased unless the subject is exhibiting aggressive physical resistance.
	- <u>Fleeing</u> subjects, who are subject to arrest, should be predicated upon the subject exhibiting active physical resistance. To deploy a Taser on a fleeing subject whom officers are taking into custody pursuant to the Baker Act should be predicated upon the subject clearly exhibiting behavior that would (or apparent ability to) cause harm to themselves or others.
	- Utilizing <u>repetitive cycles</u> shall be predicated upon the following: subject continues to exhibit active physical resistance, subject refuses to follow the officer's commands to stop resisting, and a tactical method is not feasible or could put officer in jeopardy. Notwithstanding the above factors, the attempt by the subject to defeat the Taser connection is sufficient justification for repetitive deployment.
- May be used to neutralize an attack by an animal.	same

# MDPD Taser Policy Comparison

Taser Prohibitions	Taser Prohibitions
- Intentional Taser shots to the face, throat, or groin area	same
- Taser shall not be used on women who are known to be pregnant and/or women who appear to be pregnant.	same
- Taser will not be used in incidents where self-defense spray has been deployed.	same
- The Taser dataport cover will not be removed unless the Taser is being charged or downloading information.	same
	- Taser shall not be deployed on subjects in physical control of a motor vehicle while the engine is running.
	- Officers shall not utilize Tasers or its accessories not approved and issued by the training bureau.

## LEGISLATIVE ANALYSIS

*RESOLUTION AUTHORIZING THE CREATION OF THE JUVENILE SERVICES DEPARTMENT BY TRANSFERRING THE DIVISION OF PREVENTION SERVICES (DPS) AND THE JUVENILE TREATMENT FOR SAFER COMMUNITIES (TASC) DIVISION FROM THE DEPARTMENT OF HUMAN SERVICES TO THE JUVENILE ASSESSMENT CENTER (JAC)*

Miami-Dade Juvenile Assessment Center

### I. SUMMARY

This Item consolidates the social services provided by the Division of Prevention Services (DPS) and the Juvenile Treatment for Safer Communities (TASC) into a singular department, the Juvenile Services Department (JSD). The newly created JSD would be assigned the dual task of serving juveniles who have been arrested and those at-risk for arrest. The merger also guarantees the following:

- All 111 employees of DPS and TASC will be retained
- 24 hour assessment services for troubled youths
- Detention cost reductions due to the implementation of arrest alternatives

### II. PRESENT SITUATION

Presently, there is a duplication of social services provided to juveniles by the Department of Human Services and the Juvenile Assessment Center.

### III. POLICY CHANGE AND IMPLICATION

- An organizational structure change reassigning the combined services under the new Juvenile Services Department
- Service population shift to serving trouble juveniles
- Change of focus to outcome oriented social programs

### IV. ECONOMIC IMPACT

Anticipated decrease in the overall cost to detain a youth due to the implementation of proactive deterrents.

### V. COMMENTS AND QUESTIONS

Projected cost to detain a youth is \$118 per day.